

AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1035

Introduced by Senator Huff

February 18, 2014

An act to amend ~~Section 17001~~ of Sections 17072 and 19184 of, to amend and repeal Sections 17131.4, 17131.5, 17215.1, and 17215.4 of, and to add Sections 17138.5 and 17216 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1035, as amended, Huff. Personal income ~~tax~~. taxes: health savings accounts.

The Personal Income Tax Law authorizes various deductions in computing income that is subject to tax under that law.

This bill would, for taxable years beginning on and after January 1, 2015, allow a deduction in connection with health savings accounts in conformity with federal law. In general, the deduction would be an amount equal to the aggregate amount paid in cash during the taxable year by, or on behalf of, an eligible individual, as defined, to a health savings account of that individual, as provided. This bill would, for taxable years beginning on and after January 1, 2015, also provide related conformity to that federal law with respect to the allowance of rollovers from Archer Medical Savings Accounts, health flexible spending arrangements, or health reimbursement accounts to a health savings account, and penalties in connection therewith.

This bill would take effect immediately as a tax levy.

~~The Personal Income Tax Law imposes tax upon the taxable income of California residents and on the taxable income of nonresidents derived from sources within the state.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 17072 of the Revenue and Taxation Code*
2 *is amended to read:*

3 17072. (a) Section 62 of the Internal Revenue Code, relating
4 to adjusted gross income defined, shall apply, except as otherwise
5 provided.

6 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating
7 to certain expenses of elementary and secondary school teachers,
8 shall not apply.

9 (c) Section 62(a)(21) of the Internal Revenue Code, relating to
10 attorneys fees relating to awards to whistleblowers, shall not apply.

11 (d) *For taxable years beginning on or after January 1, 2015,*
12 *Section 62(a)(19) of the Internal Revenue Code, relating to health*
13 *savings accounts, shall apply, as modified by Section 17216.*

14 *SEC. 2. Section 17131.4 of the Revenue and Taxation Code is*
15 *amended to read:*

16 17131.4. (a) Section 106(d) of the Internal Revenue Code,
17 relating to contributions to health savings accounts, shall not apply.

18 (b) *This section shall apply to taxable years beginning on or*
19 *after January 1, 2005, and before January 1, 2015.*

20 (c) *This section shall remain in effect only until January 1, 2019,*
21 *and as of that date is repealed.*

22 *SEC. 3. Section 17131.5 of the Revenue and Taxation Code is*
23 *amended to read:*

24 17131.5. (a) Section 125(d)(2)(D) of the Internal Revenue
25 Code, relating to the exception for health savings accounts, shall
26 not apply.

27 (b) *This section shall apply to taxable years beginning on or*
28 *after January 1, 2005, and before January 1, 2015.*

29 (c) *This section shall remain in effect only until January 1, 2019,*
30 *and as of that date is repealed.*

31 *SEC. 4. Section 17138.5 is added to the Revenue and Taxation*
32 *Code, to read:*

1 17138.5. For taxable years beginning on or after January 1,
2 2015, Section 106 of the Internal Revenue Code, as amended by
3 Section 302 of the Tax Relief and Health Care Act of 2006 (Public
4 Law 109-432), relating to health savings accounts, shall apply,
5 except as otherwise provided.

6 SEC. 5. Section 17215.1 of the Revenue and Taxation Code is
7 amended to read:

8 17215.1. (a) Section 220(f)(5) of the Internal Revenue Code,
9 relating to rollover contributions, shall not apply.

10 (b) This section shall apply to taxable years beginning on or
11 after January 1, 2005, and before January 1, 2015.

12 (c) This section shall remain in effect only until January 1, 2019,
13 and as of that date is repealed.

14 SEC. 6. Section 17215.4 of the Revenue and Taxation Code is
15 amended to read:

16 17215.4. (a) Section 223 of the Internal Revenue Code,
17 relating to health savings accounts, shall not apply.

18 (b) This section shall apply to taxable years beginning on or
19 after January 1, 2005, and before January 1, 2015.

20 (c) This section shall remain in effect only until January 1, 2019,
21 and as of that date is repealed.

22 SEC. 7. Section 17216 is added to the Revenue and Taxation
23 Code, to read:

24 17216. For taxable years beginning on or after January 1,
25 2015, all of the following apply:

26 (a) Section 223 of the Internal Revenue Code, relating to health
27 savings accounts, shall apply, except as otherwise provided.

28 (b) Section 223(e)(1) of the Internal Revenue Code shall be
29 modified by substituting the phrase "Section 17651" for the phrase
30 "Section 511 (relating to imposition of tax of unrelated business
31 income of charitable, etc., organizations)," contained therein.

32 (c) Section 223(f)(4)(A) of the Internal Revenue Code shall be
33 modified by substituting "2 $\frac{1}{2}$ percent" for "20 percent,"
34 contained therein.

35 SEC. 8. Section 19184 of the Revenue and Taxation Code is
36 amended to read:

37 19184. (a) A penalty of fifty dollars (\$50) shall be imposed
38 for each failure, unless it is shown that the failure is due to
39 reasonable cause, by any person required to file who fails to file

1 a report at the time and in the manner required by any of the
2 following provisions:

3 (1) Subdivision (c) of Section 17507, relating to individual
4 retirement accounts.

5 (2) Section 220(h) of the Internal Revenue Code, relating to
6 medical savings accounts for taxable years beginning on or after
7 January 1, 1997.

8 (3) *For taxable years beginning on or after January 1, 2015,*
9 *Section 223(h) of the Internal Revenue Code, relating to reports.*

10 ~~(3)~~

11 (4) Subdivision (b) of Section 17140.3 or subdivision (b) of
12 Section 23711, relating to qualified tuition programs.

13 ~~(4)~~

14 (5) Subdivision (e) of Section 23712, relating to Coverdell
15 education savings accounts.

16 (b) (1) Any individual who:

17 (A) Is required to furnish information under Section 17508 as
18 to the amount designated nondeductible contributions made for
19 any taxable year, and

20 (B) Overstates the amount of those contributions made for that
21 taxable year, shall pay a penalty of one hundred dollars (\$100) for
22 each overstatement unless it is shown that the overstatement is due
23 to reasonable cause.

24 (2) Any individual who fails to file a form required to be filed
25 by the Franchise Tax Board under Section 17508 shall pay a
26 penalty of fifty dollars (\$50) for each failure unless it is shown
27 that the failure is due to reasonable cause.

28 (c) Article 3 (commencing with Section 19031) of this chapter
29 (relating to deficiency assessments) shall not apply in respect of
30 the assessment or collection of any penalty imposed under this
31 section.

32 *SEC. 9. This act provides for a tax levy within the meaning of*
33 *Article IV of the Constitution and shall go into immediate effect.*

34 ~~SECTION 1. Section 17001 of the Revenue and Taxation Code~~
35 ~~is amended to read:~~

36 ~~17001. This part shall be known and may be cited as the~~
37 ~~“Personal Income Tax Law.”~~